

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

**H. THOMAS MORAN, II, Receiver of
the Assets of LifeTime Capital, Inc. and
Certain Affiliated Persons and Entities**

Case No. C-3-05-072

Plaintiff,

-vs-

DAVID W. SVETE,

**Judge Thomas M. Rose
Magistrate Judge Sharon L. Ovington**

Defendant.

DECISION AND ORDER OVERRULING DAVID W. SVETE'S OBJECTIONS (Doc. #34) TO MAGISTRATE JUDGE SHARON L. OVINGTON'S REPORT AND RECOMMENDATIONS REGARDING SVETE'S MOTION TO DISMISS (Doc. #30) AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS IN THEIR ENTIRETY

Now before the Court is Defendant David W. Svete's ("Svete's") Objections (doc. #34) to the Report and Recommendations of Magistrate Judge Sharon L. Ovington (doc. #30). The Report and Recommendations addresses Svete's Motion To Dismiss (doc. # 21).

Magistrate Judge Ovington's Report and Recommendations was filed on November 3, 2006, and Svete's Objections were filed on November 22, 2006. The Receiver did not file Objections to the Report and Recommendations or a memorandum in opposition to Svete's Objections.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds

that Svete's objections to the Magistrate Judge's Report and Recommendations are not well-founded and are OVERRULED.

Accordingly, Magistrate Judge Ovington's Report and Recommendations is ADOPTED in its entirety. Svete's Motion To Dismiss for Lack of Jurisdiction Due To Arbitration Agreement is DENIED.

DONE and **ORDERED** in Dayton, Ohio, this Twelfth day of December, 2006.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Mr. Svete